IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

RCRev..No. 394 of 2006()

RCA.160/2001 of ADDL.DISTRICT COURT (ADHOC)-III, THALASSERY
RCP.128/2000 of ADDL.MUNSIFF COURT, KANNUR
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REVISION PETITIONERS/APPELLANTS/RESPONDENTS
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1. E.JOSEPH THEJOBALAN,
S/O.ISRAEL, AGED 66 YEARS,
P.P.W.V-243(384), PAPPINISSERI AMSOM,
AROLI DESOM, KANNUR DISTRICT.

2. GRACY, W/O.E.JOSEPH THEJOBALAN,
AGED 56 YEARS, P.P.W., V-243(384),
PAPPINISSERI AMSOM, AROLI DESOM,
KANNUR DISTRICT.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENTS: PETITIONER

KUNNUMBROM GOVINDAN, S/O.KUNHHAMBU,
AGED 51 YEARS, PAPPINISSERI AMSOM, DESOM,
PAPPINISSERI.

BY ADV. SRI.P.M.PAREETH

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 12/12/2006, ALONG WITH R.C.R. NO. 408/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

I.A. NO. 3349/2006 IN R.C.R. NO. 394/2006

DISMISSED

12.12.2006 SD/- K.A. ABDUL GAFOOR, J

SD/- K.R. UDAYABHANU, J

/True Copy/

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

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R.C.R. NOS. 394 & 408 OF 2006

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Dated this the 12th day of December 2006

O R D E R

Udayabhanu,J

Revision petitioners are the tenants of the premises and under orders of eviction concurrently by both the courts below under section 11(2)(b) as well as under section 11(3) in the separate RCPs filed. The appellate authority had upheld the contention of the landlord vide the common order against which both the R.C.R. are filed.

2. At the time of hearing, the counsel for the Revision Petitioner conceded for an order to surrender vacant possession but with the sufficient time as the first revision petitioner is afflicted with Alzheimer's decease.

3. Learned counsel for the respondent was also heard.

4. R.C.R. 394/2006 is to be disposed of in view of the decision of this court in **Suhra v. Abdul Shukkur** (1996 (2) KLT 936) that the assignee, the landlord, is not entitled to claim arrears of rent invoking section 11(2)(b). With respect to the

rent accrued for the period preceding the assignment the landlord may seek appropriate relief on the civil side.

5. In the circumstances, the revision petitioners are directed to surrender eviction possession of the premises within 6 months from today i.e., on or before 12.06.2007 and on remitting the rental arrears if any from the date of assignment of the premises in favour of the respondent by the prior landlord and shall continue to remit the rent due further and file an affidavit before the execution court in compliance.

It was also submitted by the counsel for the Revision Petitioner that the continuance of the proceedings before the Land Tribunal on application for purchase of kudikidappu would not be required in view of the undertaking that vacant possession shall be given to the landlord. In the circumstances, the proceedings before the Land Tribunal pending is to be terminated. The R.C.Rs are dismissed as above.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

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